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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/678,430

10/02/2000

Chris Greener

PA1256US

4360

22504

7590

05/22/2006

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EXAMINER

KINDRED, ALFORD W

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/678,430	<b>Applicant(s)</b> GREENER ET AL.	
	<b>Examiner</b> Alford W. Kindred	<b>Art Unit</b> 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 33-40 and 42-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-40 and 42-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to communications: Reconsideration, filed on 02/22/06.  
This action is made final.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 33-40 and 42-46 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, JR. et al., US# 2002/0128898 A1, in view of Beck et al., US# 2002/0128898 A1.

As per claim 33, Smith, JR. et al. teaches "a database interface configured to access the database . . ." (see page 3, paragraphs and [0047]) "a survey creation engine configured to create surveys . . ." (see page 3, paragraph [0043]) "allow a user of the survey creation machine to create a survey . . ." (see page 4, paragraphs [0052]-[0053]) "an e-mail list management facility configured to provided management capability through the network browser of the survey design machine of a list of e-mail . . ." (see paragraphs [0108]-[0110]). Smith, Jr. et al. does not teach "the e-mail containing a network link to provide access to the survey for the client computer via network protocols . . .". Beck et al. et al. teaches "the e-mail containing a network link to provide access to the survey for the client computer via network protocols . . ." (see

paragraphs [[0118] and [0387], whereas Becks e-mail link capabilities, in regards to survey data, reads on applicant's claim language). It would have obvious at the time of the invention for one of ordinary skill in the art to have combined the teachings of Smith and Beck, because using the steps of "the e-mail containing a network link to provide access to the survey for the client computer via network protocols . . ." would have given those skilled in the art the tools to provide survey data in the form of e-mail over a network. This give users the advantage of processing survey data faster.

As per claim 34, Smith, JR. et al. teaches "interfaces of the host machine and the survey design machine are configured to access the Internet" (see page 4, lines [0057]-[0058]).

As per claims 35-37, Smith, JR. et al. teaches "a sever process configured to send a created survey . . . than mail protocols . . ." (see page 3, paragraphes [0046]-[0048]).

As per claims 38-39, Smith, JR. et al. teaches "the server process of the host machine is further configured to provide access to response stored in the database for the network browser of the survey design machine" (see page 6, paragraphes, [0098], and [0107]-[0111]).

As per claim 40, Smith, JR. et al. teaches "a survey report machine configured to download the response stored in the database into a spreadsheet program" (see paragraph [0131]-[0132]).

As per claim 42, Smith, JR. et al. teaches "the network link of the e-mail is a universal resource locator (URL)" (see page 9, paragraph [0143]).

As per claim 43, Smith, JR. et al. teaches "the host is configured to store web content objects associated with the stored surveys" (see page 9, paragraphs [0137]-[0141]).

As per claim 44, Smith, JR. et al. teaches "the database is configured to provide password protected access to stored surveys and responses to surveys" (see page 8, paragraphs [0128]-[0130]).

As per claim 45, Smith, JR. et al. teaches "created engine includes a wizard process configured to provide automated guidance in survey creation" (see page 8, paragraphs [0125]).

As per claim 46, Smith, JR. et al. teaches "survey creation engine includes templates of exemplary surveys and is configured to provide to the network browser of the survey design machine at least one function configured to provide modification capability for tailoring of the exemplary surveys to match requirements of intended surveys" (see page 12, paragraphs [0176]-[0177]).

As per claim 56, this claim is rejected on grounds corresponding to the arguments given above for rejected claim 46 and is similarly rejected.

4. Claims 47-55 and 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, JR. et al., US# 2002/0128898 A1, in view of Beck, US# 2004/0169675 A1, and further in view of DESAI et al., US# 2001/0052009 A1.

As per claim 47, this claim is rejected on grounds corresponding to the arguments given above for rejected claim 33 and is similarly rejected including the

following: Smith, JR. et al. does not explicitly teach “the network to edit a list of e-mail recipients stored . . .”. DESAI et al. teaches “the network to edit a list of e-mail recipients stored . . .” (see paragraphs [0033]-[0035]). It would have been obvious at the time of the invention for one of ordinary skill in the art the tools to efficiently edit email list for surveying purposes. This give users the advantage for rendering modified survey lists from recipients faster.

As per claim 48, this claim is rejected on grounds corresponding to the arguments given above for rejected claim 41 and is similarly rejected.

As per claim 49, this claim is rejected on grounds corresponding to the arguments given above for rejected claim 46 and is similarly rejected.

As per claim 50, this claim is rejected on grounds corresponding to the arguments given above for rejected claim 45 and is similarly rejected.

As per claim 51, this claim is rejected on grounds corresponding to the arguments given above for rejected claims 33 and 35 and is similarly rejected.

As per claims 52-55, these claims re rejected on grounds corresponding to the arguments given above for rejected claims 33 and 47 and are similarly rejected.

As per claims 57-58, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 33 and 47 and are similarly rejected including the following:

- Smith, JR. et al. teaches “progress bars to be added by the survey creation engine” (see paragraph [0110], whereas Smith’s gathering of results indicates

a progress element in regards to surveying as indicated in applicant's claim language).

fig. 8—sheet 9 of 11 and see paragraphs [0097]-[0098]).

As per claims 59-60, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 33 and 47 and are similarly rejected including the following:

--Smith, JR et al. teaches "select font of text . . . color . . ." (see fig. 3—sheet 4 of 11)).

### ***Response to Arguments***

5. Applicant's arguments filed 9/19/05 have been fully considered but they not persuasive in view of the original grounds of rejection.

--As per applicant's arguments regarding "In Beck survey takers most assuredly do not have access to web pages . . .", examiner disagrees and maintains that Beck's teachings involving "email", clearly includes the accessing to markup/hypertext language which is required for web excess, therefore the teachings of Beck and the instant invention's claims are synonymous.

--As per applicant's arguments regarding "Smith and /or Beck alone . . . do not teach or suggest . . . regarding a survey creation engine configured to create surveys . . . and an email list management facility . . .", examiner maintains that the Smith combined with Beck teaches the ability to create surveys via an electronic environment

(i.e. web) with various links associated with clients as illustrated in applicant's claim language.

--As per applicant's arguments regarding "the Office Action inaccurately represents . . . of Desai by stating that these paragraphs teach a portion of claim 47 regarding using a survey design computer . . . contrary to this inaccurate statement . . . the Office Action's use of Desai in an attempt to supply teaching for the portion of claim 33 is merely a bare assertion . . .", examiner disagrees. Examiner maintains that Desai's teachings of manipulating questionnaires in regard to clients is illustrative of applicant's claim language involving surveys regarding email recipients.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Smith and Beck both contain teachings regarding survey data combined with an electronic environment (i.e. network), combined with those of ordinary skill in the art recognize the reason to combined the two reference to teach applicant's claim language.

--As per applicant's arguments regarding "applicant's do not believe the mere processing of results is similar to selecting progress bars . . .", examiner maintains that



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the combination of Smith, Beck and Desai, combined teaches applicant's claim language involving selecting progress bars as illustrated in applicant's claim language. The prior art teaching of processing results, as implied by applicant's arguments, includes a mechanism of determining the progress of that result being process. This is indicative of applicant's claim language teachings with respect to "progress bars".

***Conclusion***

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

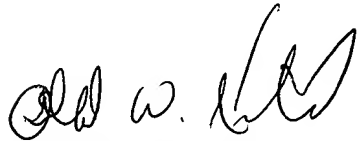
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alford W. Kindred whose telephone number is 571-272-4037. The examiner can normally be reached on Mon-Fri 9:00 am- 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Alford W. Kindred', with a stylized flourish at the end.

Alford W. Kindred  
Patent Examiner  
Tech Ctr. 2100